



DISABILITY AND COMMUNICATION ACCESS BOARD

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INTERPRETIVE OPINION

Pursuant to §103-50, Hawaii Revised Statutes (HRS), all buildings and facilities constructed by, or on behalf of the State or any county, shall conform to the 2004 Americans with Disabilities Act Accessibility Guidelines (2004 ADAAG) and amendments. In accordance to HRS §103-50 and Chapter 11-217, Hawaii Administrative Rules, the Disability and Communication Access Board has authority to issue interpretive opinions to HRS §103-50 design standards.

Docket: **DCAB 2011-08: Are sidewalks within the public right-of-way allowed to exceed the maximum running slope for an accessible route in ADAAG 403?**

Summary: The 2004 ADAAG does not address items in the public right-of-way (PROW), however, DCAB receives numerous projects for review that involve the sidewalks within the PROW. As the sidewalks are designed and constructed by Title II entities for the public's use, it can be argued that these sidewalks are a "program" covered by the DOJ Title II regulations and therefore they must be accessible.

There are situations in which the ADAAG does not address a particular element. In these instances, the guidelines that can be used or which may be applicable are applied as a minimum requirement. However, the ADAAG provisions for accessible routes within a site are not wholly applicable to routes within the PROW. Sidewalks are fundamentally different from walkways on sites as they are adjacent to roadways and roadway design and urban planning constraints. Roadways typically follow the predominate site grades and terrain. In the design of sidewalks within the right-of-way, the running slope typically follow the grade of the roadway; hence sidewalks must sometimes exceed the maximum running slope allowed by the ADAAG provisions. It is not feasible to "flatten" out all roads to allow the sidewalks to comply with maximum running slopes as defined by ADAAG. This is one of the reasons the U.S. Access Board has started to develop guidelines specific to public rights-of-way; these guidelines can be applied as best practice with regards to sidewalks in the public right-of-way.

Ruling: For buildings or facilities subject to HRS §103-50,

ADAAG Section 403 Walking Surfaces

The running slope of an accessible route within a public right-of-way is permitted to exceed the maximum running slope for an accessible route in ADAAG 403, provided that the running slope does not exceed the longitudinal running grade of the adjacent roadway.

[Rul: 01/03/2011] (Auth and Imp: HRS §103-50)

If you have any questions or comments regarding this ruling, please call us at 586-8121.
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